

# The Gazette of India

## EXTRAORDINARY PART II—Section 2 PUBLISHED BY AUTHORITY

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### LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th November, 1961:—

\*BILL No. 64 OF 1961

*A bill further to amend the Indian Railways Act, 1890.*

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Indian Railways (Second Amendment) Act, 1961. Short title.

9 of 1890. 5 2. In section 82A of the Indian Railways Act, 1890 (hereinafter referred to as the principal Act), in sub-section (2), for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted. Amendment of section 82A.

10 3. For section 82H of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 82H.

8 of 1923. 15 "82H. (1) The right of any person to claim compensation under section 82A shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923 or any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect of the same accident. Saving as to certain rights.

20 (2) Nothing in sub-section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance."

\*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

Amendment  
of section  
126.

4. In section 126 of the principal Act, for the words "with transportation for life or with imprisonment for a term which may extend to ten years", the following shall be substituted, namely:—

"with imprisonment for life or with rigorous imprisonment for a term which may extend to ten years: 5

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, where a person is prescribed with rigorous imprisonment, such rigorous imprisonment shall,—

(a) in the case of a first conviction, be not less than 10 three years, or

(b) in the case of a subsequent conviction, be not less than seven years."

Amendment  
of section  
127.

5. In section 127 of the principal Act, for the words "transportation for life", the words "imprisonment for life" shall be substituted. 15

Amendment  
of section  
128.

6. In section 128 of the principal Act, for the words "with imprisonment for a term which may extend to two years" the following shall be substituted, namely:—

"with imprisonment for a term which may extend to five years: 20

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall,—

(a) in the case of a first conviction, be not less than six months, or 25

(b) in the case of a subsequent conviction, be not less than two years."

## STATEMENT OF OBJECTS AND REASONS

Under section 82A of the Indian Railways Act, 1890, the maximum liability of the railway administration for loss occasioned by the death of a passenger dying as a result of a railway accident and for personal injury and loss of property is limited to Rs. 10,000 in respect of any one person. In view of the present increased cost of living and the *per capita* income, it is proposed to raise this limit to Rs. 20,000.

Section 82H of the Act provides that the right to claim compensation under section 82A does not affect the right to claim compensation under the Workmen's Compensation Act or any other law for the time being in force. This has been interpreted to mean that, in respect of the same accident, claims may be made for compensation under the Railways Act as well as under the Workmen's Compensation Act or any other law. *Prima facie*, there seems to be no reason why compensation should be paid under more than one law especially when the railway has assumed liability whether there is negligence on the part of the railway or not and also when the maximum limit of liability is to be increased to Rs. 20,000. It is accordingly proposed to restrict the right to claim compensation under any one of the laws referred to above. This does not, however, affect the right to claim compensation under any contract or scheme or policy of insurance.

Section 126 of the Act provides a penalty of imprisonment which may extend to 10 years. In practice, however, the courts have usually let off the criminals with lighter punishments which have not proved to be sufficiently deterrent. It is, therefore, proposed to amend the section so as to provide for a minimum punishment unless there are special and adequate reasons for not awarding the minimum sentence. It is also proposed to amend section 128 (which deals with a cognate offence) on similar lines.

The Bill is intended to give effect to the above proposals. Opportunity has also been taken to make certain other amendments of a formal nature.

NEW DELHI:  
The 21st November, 1961.

JAGJIVAN RAM.

## FINANCIAL MEMORANDUM

Under section 82A(2) of the Indian Railways Act, the maximum limit of liability of the railway administration in respect of any one person is Rs. 10,000. Clause 2 of the Bill seeks to increase this maximum limit to Rs. 20,000. In view of the increase in the maximum limit of compensation, it will be necessary to revise the rates at which compensation is payable. This involves additional expenditure from the Consolidated Fund of India. It is estimated that the additional expenditure on this account will approximately be Rs. 8 lakhs per annum; in other words, the total expenditure is likely to be Rs. 13.5 lakhs as against Rs. 5.5 lakhs at present.

\*BILL No. 63 OF 1961

*A bill to provide for the levy and collection of a cess on iron ore for the financing of activities to promote the welfare of labour employed in the iron ore mining industry.*

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. (1) This Act may be called the Iron Ore Mines Labour Welfare Cess Act, 1961.

Short title  
extent and  
commence-  
ment.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected, as a cess for the purposes of this Act on all iron ore produced in any mine, a duty of excise at such rate not exceeding fifty naye paise per metric tonne of iron ore as the Central Government may, from time to time, fix by notification in the Official  
15 Gazette.

Levy and  
collection of  
cess on iron  
ore.

3. An amount equivalent to the proceeds of the duty levied under this Act, reduced by the cost of collection as determined by the Central Government, together with any income from investment of the said amount and any other moneys received by the Central Government  
20 for the purposes of this Act, shall, after due appropriation made by

Application  
of proceeds  
of cess.

\*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

Parliament by law, be utilised by the Central Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government, are necessary or expedient to promote the welfare of labour employed in the iron ore mining industry; and in particular,—

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(a) to defray the cost of measures for the benefit of labour employed in the iron ore mining industry directed towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities,

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(ii) the provision and improvement of water supplies and facilities for washing,

(iii) the provision and improvement of educational facilities,

(iv) the improvement of standards of living including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities, and

(v) the provision of transport to and from work;

(b) to make grants to a State Government, a local authority, the owner of an iron ore mine or any other person, of money in aid of any scheme approved by the Central Government for any purpose connected with the welfare of labour employed in the iron ore mining industry;

(c) to pay annually grants-in-aid to such of the owners of iron ore mines as provide to the satisfaction of the Central Government welfare facilities of the prescribed standard for the benefit of labour employed in their mines, so, however, that the amount payable as grant-in-aid to the owner of an iron ore mine shall not exceed—

(i) the amount spent by the owner of the mine in the provision of welfare facilities, as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed by rules made under this Act;

whichever is less:

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Provided that no grant-in-aid shall be payable in respect of any welfare facilities provided by the owner of an iron ore mine where the amount spent thereon determined as aforesaid is less than the amount prescribed by rules made in this behalf;

(d) to meet the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and allowances, if any, of persons appointed under section 5.

4. (1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal iron ore producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the amount of cess or of any other moneys referred to in section 3.

Advisory  
Committees.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed by rules made under this Act:

15 Provided that each Advisory Committee shall include an equal number of members representing Government, the owners of iron ore mines and workmen employed in the iron ore mining industry and that at least one member of each such Committee shall be a woman.

20 (3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Advisory Committees.

5. (1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers and staff as it thinks necessary for the purposes of this Act.

Appoint-  
ment and  
powers of  
staff.

45 of 1860. (2) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) Any Inspector or Welfare Administrator may,—

30 (a) with such assistance, if any, as he thinks fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act, and

(b) do within such place anything necessary for the proper discharge of his duties.

35 6. Notwithstanding anything hereinbefore contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of labour employed in the iron ore mining industry, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not

Power of  
Central  
Government  
to exempt.

apply, or shall apply to such State or part subject to such exceptions and modifications as may be specified in the notification.

Annual  
report of  
activities  
financed  
under the  
Act.

7. The Central Government shall, as soon as may be, after the end of each financial year cause to be published in the Official Gazette a report giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts. 5

Power to  
make rules.

8. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act. 10

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the assessment and collection of a cess levied under this Act;

(b) the determination of the cost of collection of the cess; 15

(c) the manner in which the amount of the cess and other moneys, if any, may be applied on the measures specified in section 3;

(d) the conditions governing the grant of money under clause (b) of section 3; 20

(e) the standard of welfare facilities to be provided by owners of iron ore mines for the purposes of clause (c) of section 3 and the amounts referred to in sub-clause (ii) and proviso of that clause;

(f) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business; 25

(g) the recruitment, conditions of service and the duties of all persons appointed under section 5; 30

(h) the furnishing by owners, agents or managers of iron ore mines, of statistical and other information.

(3) In making any rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine. 35

(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised



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in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall there-  
5 after have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The living conditions of labour employed in the iron ore mining industry are not satisfactory. A Working Group set up in 1956, which included representatives of employers and workers, while commenting on the unsatisfactory labour conditions in mines surveyed by them, recommended that a welfare fund financed by a special cess should be set up on the pattern of the Coal Mines Labour Welfare Fund or the Mica Mines Labour Welfare Fund. This recommendation has also been supported by the tripartite Industrial Committee on mines other than coal, which included representatives of State Governments. It is not the intention to take over completely the responsibility of the employers in the matter of provision of welfare facilities, but it is proposed to levy a cess on all iron ore produced and to utilize the proceeds of the cess for providing labour employed in the iron ore mines with welfare facilities comparable to those now being provided in the coal and mica mines. The Bill seeks to give effect to these proposals.

G. L. NANDA.

NEW DELHI;

*The 21st November, 1961.*

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the levy of a cess at such rate not exceeding 50 naye paise per metric tonne of iron ore produced, as the Central Government may fix from time to time. It is expected that the cess at the maximum rate of 50 naye paise per metric tonne will yield about rupees forty lakhs per annum. After meeting the expenses incurred on Advisory Committees, etc., the balance will be utilized subject to appropriation by Parliament, on the objects specified in clause 3 of the Bill.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying into effect the purposes of the Act. Matters in respect of which such rules may be made are specified in that clause. They *inter alia* relate to the collection of the cess and the determination of the cost of such collection, the manner in which the amount of the cess is to be applied, the conditions governing the grant of moneys to State Governments, etc., in aid of any approved schemes, the standard of welfare facilities to be maintained by mine managements for purposes of obtaining grants and the limits to be imposed on such grants, and the composition of the Advisory Committees. Rules made under this clause may also provide that a breach of any such rule shall be punishable with fine.

The scope of clause 8 is thus limited to matters of procedure or detail and the delegation is of a normal character.

## BILL NO. 62 OF 1961

*A bill further to amend the Telegraph Wires (Unlawful Possession) Act, 1950.*

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Telegraph Wires (Unlawful Possession) Amendment Act, 1961. Short title.

74 of 1950. 5 2. For section 5 of the Telegraph Wires (Unlawful Possession) Act, 1950 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:— Substitution of new section for section 5.

10 “5. Whoever is found or is proved to have been in possession of any quantity of telegraph wires shall, unless he proves that the telegraph wires came into his possession lawfully, be punishable,— Penalty for unlawful possession of telegraph wires.

(a) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both;

15 (b) for the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees:

Provided that where a person has made a declaration under section 3 in relation to any quantity of telegraph wires, the burden of proving, in respect of the quantity so declared, that it came into his possession lawfully, shall not be on such person.”.

**Amendment of section 8.** 3. In section 8 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— 5

“(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, 10 before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, 15 that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

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### STATEMENT OF OBJECTS AND REASONS

Under section 5 of the Telegraph Wires (Unlawful Possession) Act, 1950, punishment is provided for any one who is found or is proved to have been in possession of any quantity of certain gauges of copper wire which are in use in the Posts and Telegraphs Department. The punishment includes imprisonment extending to five years, or fine, or both.

2. There has been a steady increase in the incidence of copper wire thefts from trunk lines and it has been noticed in a number of cases that the same set of persons are responsible for the offence. It is also seen that the punishments awarded by courts in such cases have been light. It is felt that the provision of a minimum punishment for the second and subsequent offences under the Act by the same set of persons may act as a deterrent to persons repeating the offence. For this purpose, it is necessary to amend section 5 of the Telegraph Wires (Unlawful Possession) Act, 1950.

3. The present Bill is designed to achieve the object mentioned above.

NEW DELHI;  
*The 17th November, 1961.*

P. SUBBARAYAN.

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M. N. KAUL,  
*Secretary.*

